

Respondent has filed his Answer-Response on Behalf of Respondent to Supplemental Petition for Writ of Habeas Corpus and Brief in Support (Doc 55) and a Motion to Strike as Untimely Petitioner's Motion and Memorandum of Law in Support for order Ruling Habeas Petition Timely Filed. (Doc. 54).

The Court **WITHHOLDS** ruling on both Respondent's Motion to Dismiss Petition for Writ of Habeas Corpus as Untimely (Doc. 4) and Petitioner's Motion for Order Ruling Habeas Petition Timely Filed or, alternatively, Granting Evidentiary Hearing. (Doc. 52). The parties are to comply with the Court's November 1, 2011 Scheduling Order. After review of the filings made in accordance with the Scheduling Order, the Court will determine if an evidentiary hearing is necessary or not and whether equitable tolling applies.

In view of the Court's Scheduling Order, the Court **DENIES AS MOOT** Respondent's Motion to Strike as Untimely Petitioner's Motion and Memorandum of Law in Support for order Ruling Habeas Petition Timely Filed. (Doc. 54).

SO ORDERED, this 1st day of November, 2011.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT